UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

DARNELL E. WILLIAMS and YESSENIA M. TAVERAS,))
Plaintiffs,))
v.) Civil Action No. 16-11949-LTS
ELISABETH DEVOS, in her official capacity as Secretary of the United States Department of Education,)))
Defendant.	<i>)</i>))

DEFENDANT'S STATUS REPORT

Pursuant to the Court's Order dated October 24, 2018 (Document No. 100), Defendant, Elisabeth DeVos ("Defendant"), the Secretary of the U.S. Department of Education ("Education"), by and through her attorney, Andrew E. Lelling, United States Attorney for the District of Massachusetts, reports as follows:

- 1. <u>Removal from TOP certification</u>. Plaintiffs' student loan debts, which are at issue in this litigation, have been placed in stopped collection status and are not certified for the Treasury Offset program ("TOP").
- 2. <u>Letter to Darnell Williams</u>. On December 12, 2018, Education sent a letter to Plaintiff Darnell Williams, with a copy to Attorney General Maura Healy, regarding his borrower defense application. A copy of that letter, with its enclosure, is attached hereto at Exhibit A.
- 3. <u>Letter to Yesenia Taveras</u>. On December 12, 2018, Education sent a letter to Plaintiff Yesenia Taveras, with a copy to Attorney General Maura Healy, regarding her borrower defense application. A copy of that letter is attached hereto at Exhibit B.

4. <u>Revised Notice of Proposed Offset.</u> Effective November 26, 2018, Education revised its TOP Notice to specifically include a reference to borrower defenses. The Notice now states:

The Department will not report the default status of your debt to credit reporting agencies or collect the debt by Treasury offset to the extent that:

. . .

You have a defense to repayment of the debt (also known as a borrower defense) because the school you attended engaged in acts or omissions that would give rise to a cause of action against the school under applicable State law and the cause of action directly relates to the loan or to the school's provision of educational services for which the loan was provided.

[See the enclosed Request for Review form for additional information on objections you may raise.]

A copy of the revised notice is attached hereto at Exhibit C.

5. Revised TOP Request For A Hearing. Effective November 26, 2018, Education revised its TOP Request For A Hearing to specifically include a reference to borrower defenses. A copy of the revised notice is attached hereto as Exhibit D.

6. Revised TOP Referral Procedures. Effective December 10, 2018, each account referred to TOP is checked weekly to verify whether a borrower defense application has been filed. If such application has been filed, the account will be removed from TOP and put into forbearance or stopped collection status.

Respectfully submitted,

ANDREW E. LELLING United States Attorney

By: /s/ Jessica P. Driscoll
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Dated: December 20, 2018

CERTIFICATE OF SERVICE

I, Jessica P. Driscoll, Assistant United States Attorney, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants by First Class Mail.

/s/ Jessica P. Driscoll
Jessica P. Driscoll
Assistant United States Attorney

Dated: December 20, 2018